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## **FULFILMENT OF THE RIGHT TO AN ADEQUATE STANDARD OF LIVING FOR WORKERS ACCORDING TO THE UNIVERSAL DECLARATION OF HUMAN RIGHTS: A REVIEW OF CONSTITUTIONAL COURT DECISION NO. 168/PUU-XXI/2023**

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**Abstrak:** Artikel ini bertujuan untuk menelaah relevansi Putusan Mahkamah Konstitusi No. 168/PUU-XXI/2023 dalam konteks pemenuhan hak hidup layak bagi pekerja sesuai *Universal Declaration of Human Rights* (UDHR). Penelitian ini menggunakan metode yuridis-normatif dengan pendekatan analisis dokumen, yang mencakup kajian terhadap putusan MK, instrumen hukum internasional seperti UDHR, dan literatur akademik. Hasil penelitian menunjukkan bahwa meskipun putusan MK mempertegas aspek perlindungan hak pekerja, tantangan tetap muncul dalam implementasi kebijakan ketenagakerjaan. Di antara tantangan tersebut adalah fleksibilitas durasi PKWT, penghapusan batasan jenis pekerjaan *outsourcing*, serta ketidakjelasan dalam pengaturan upah minimum sektoral. Artikel ini merekomendasikan penguatan regulasi dan pengawasan untuk memastikan hak hidup layak pekerja sesuai prinsip UDHR dapat terpenuhi secara optimal.

**Kata Kunci:** *hak pekerja; udhr; hukum ketenagakerjaan; putusan mahkamah konstitusi; upah minimum*

**Abstract:** This article examines the relevance of Constitutional Court Decision No. 168/PUU-XXI/2023 in fulfilling the right to an adequate standard of living for workers per the Universal Declaration of Human Rights (UDHR). This research uses a juridical-normative method with a document analysis approach, which includes a study of the Constitutional Court's decision, international legal instruments such as the UDHR, and academic literature. The results show that although the Constitutional Court's decision emphasises aspects of worker rights protection, challenges still arise in implementing labor policies. Among these challenges are the flexibility in the duration of non-permanent contracts, the removal of restrictions on the types of outsourced work, and the lack of clarity in sectoral minimum wage arrangements. This article recommends strengthening regulations and supervision to ensure that workers' right to an adequate standard of living in accordance with UDHR principles can be fulfilled optimally.

**Keywords:** *workers' rights; udhr; labor law; constitutional court decision; minimum wage*

### **Introduction**

The right to an adequate standard of living is a fundamental human right universally recognised in Article 25 of the Universal Declaration of Human Rights (UDHR). Article 25 emphasises that everyone has the right to an adequate standard of living for their health and

well-being, including food, clothing, housing, and medical care.<sup>1</sup> These rights underscore the importance of fair wages, humane working conditions, and social security for workers in the labor context.<sup>2</sup>

In Indonesia, the right to an adequate standard of living life is enshrined in Article 27(2) of the 1945 Constitution and regulated through various sectoral laws, such as Law No. 13 of 2003 on Labor. However, realising these rights faces significant challenges, including wage inequality, weak labor oversight, and the economic impact of policies such as the Omnibus Law on Job Creation (UU Ciptaker).<sup>3</sup> The labor provisions in UU Ciptaker introduce reforms to fixed-term employment contracts (Perjanjian Kerja Waktu Tertentu, PKWT), outsourcing, working hours, minimum wages, job loss insurance, foreign labor, and termination of employment.<sup>4</sup>

Despite its goal of promoting labor market flexibility and attracting investment, UU Ciptaker has sparked national controversy, particularly in its labor provisions. Key concerns include the removal of time limits on PKWT, reducing leave entitlements, and ambiguities in minimum wage regulations. While aimed at economic growth, these changes have created legal uncertainty and raised fears of weakened worker protections.<sup>5</sup> The lack of restrictions on outsourcing types and reduced severance payments under certain agreements further exacerbate these concerns.<sup>6</sup> Such developments risk undermining workers' rights to an adequate standard of livelihood as guaranteed by the UDHR.<sup>7</sup>

The UDHR establishes that everyone has the right to adequate living conditions, including decent employment and job security. However, several provisions of UU Ciptaker, such as increased flexibility in termination of employment and unclear wage systems, threaten these principles. The indefinite duration of PKWT contracts and ambiguity surrounding wage determination weaken workers' bargaining positions. As a result, labor policies in UU Ciptaker require careful evaluation to align with the state's obligations to protect workers' rights under international and national legal frameworks.<sup>8</sup>

These challenges prompted various labor unions, including the Labor Party, the Federation of Indonesian Metal Workers Union (FSPMI), the Confederation of All Indonesian Trade Unions (KSPSI), the Indonesian Workers' Confederation (KPBI), and the Confederation of Indonesian Trade Unions (KSPI), along with individual plaintiffs Mamun and Ade Triwanto, to file a judicial review with the Constitutional Court. The court partially granted their petition in Decision No. 168/PUU-XXI/2023.<sup>9</sup> This decision represents a pivotal moment in

<sup>1</sup> United Nations, "Universal Declaration of Human Rights," United Nations (United Nations), accessed November 15, 2024, <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

<sup>2</sup> See Article 22-24 *Universal Declaration of Human Rights*

<sup>3</sup> Feri Lubis, "Tantangan HAM Bagi Pekerja di Indonesia," Komisi Nasional Hak Asasi Manusia - KOMNAS HAM, February 20, 2024, <https://www.komnasham.go.id/index.php/news/2024/2/20/2477/tantangan-ham-bagi-pekerja-di-indonesia.html>.

<sup>4</sup> Nur Alfiyani, "Perbandingan Regulasi Ketenagakerjaan Dalam Undang-Undang Ketenagakerjaan Dan Undang-Undang Cipta Kerja," *AN-NIZAM Jurnal Hukum Dan Masyarakat* 14, no. 2 (December 28, 2020): 121–39, <https://doi.org/10.44633/an-nizam.v14i2.318>.

<sup>5</sup> Nikmah Dalimunthe and Fitria Nurhaliza, "Analisis Perubahan Hukum Ketenagakerjaan Pada UU Cipta Kerja Mengenai Perlindungan Hak Pekerja," *Jurnal Cahaya Mandalika ISSN 2721-4796 (Online)* 4, no. 3 (December 6, 2023): 1548–56, <https://doi.org/10.36312/jcm.v4i3.2347>.

<sup>6</sup> Lidia Febrianti, Thamrin Sambah, and Puti Mayang Seruni, "Komparasi Alih Daya Undang-Undang Ketenagakerjaan dengan Undang-Undang Cipta Kerja Tahun 2023," *JURNAL USM LAW REVIEW* 6, no. 3 (December 8, 2023): 1193–1209, <https://doi.org/10.26623/julr.v6i3.7965>.

<sup>7</sup> Henry Kristian Siburian et al., "Perumusan UU Cipta Kerja Klaster Ketenagakerjaan Berpotensi Menimbulkan Sengketa Ketatanegaraan," *Jurnal Kewarganegaraan* 7, no. 2 (September 20, 2023): 1243–52, <https://doi.org/10.31316/jk.v7i2.5358>.

<sup>8</sup> Siburian et al.; Muhammad Amin Effendy et al., "Implementasi dan Permasalahan Mengenai Perjanjian Kerja Waktu Tertentu (PKWT) Pasca Berlakunya Undang-Undang Ciptakerja," *Jurnal Ilmiah Galuh Justisi* 11, no. 1 (March 10, 2023): 135–48, <https://doi.org/10.25157/justisi.v11i1.10038>.

<sup>9</sup> Utami Argawati, "Kabulkan Sebagian, MK Minta UU Ketenagakerjaan Dipisahkan Dari UU Cipta Kerja - Berita," Mahkamah Konstitusi RI, October 31, 2024, <https://testing.mkri.id/berita/kabulkan-sebagian-mk-minta-uu-ketenagakerjaan-dipisahkan-dari-uu-cipta-kerja-21782>.

reevaluating labor policies to ensure the fulfillment of workers' rights to an adequate standard of living.

The right to an adequate standard of living is an integral part of human rights, as articulated in the UDHR. It encompasses social and economic well-being, particularly for workers, a central economic development element. Constitutional Court Decision No. 168/PUU-XXI/2023 serves as a critical milestone in strengthening the legal framework to support workers' rights to an adequate standard of livelihood. This article describes efforts to fulfil workers' rights to an adequate standard of living by analysing Constitutional Court Decision No. 168/PUU-XXI/2023 and examining its relevance to the UDHR.

Previous research highlights various weaknesses in the implementation of labor policies in Indonesia. For instance, Farianto's<sup>10</sup> study reveals that wage systems in Indonesia have yet to reflect principles of justice fully. Saputri et al.<sup>11</sup> highlight inadequate protections for workers affected by termination, while Effendy et al.<sup>12</sup> emphasize the uncertainty created by regulatory changes to PKWT under UU Ciptaker. This article contributes a novel and comprehensive analysis of Constitutional Court Decision No. 168/PUU-XXI/2023 and its significance in upholding workers' rights to an adequate standard of living, particularly within the human rights protection framework.

## Research Method

This study employs a normative juridical approach with document analysis as its primary method. This method is commonly used in legal studies to evaluate the conformity of legislation with applicable legal principles.<sup>13</sup> The primary data sources include Constitutional Court Decision No. 168/PUU-XXI/2023, international legal instruments such as the Universal Declaration of Human Rights (UDHR), and academic literature related to labor policy. The analysis techniques used are systematic and prescriptive. Systematic analysis deconstructs relevant legal components, while prescriptive analysis provides recommendations for improving labor policies.<sup>14</sup> Employing these methods enhances the validity of the research findings and provides a robust basis for drawing conclusions aligned with the context of worker rights protection in Indonesia.

## Results and Discussions

### Interpretation of the Right to an Adequate Standard of Living Under the Universal Declaration of Human Rights and Its Relevance to Workers

The right to an adequate standard of living is a fundamental human right enshrined in Article 25 of the Universal Declaration of Human Rights (UDHR). This right affirms that every individual is entitled to a standard of living adequate for their health and well-being, including food, clothing, housing, and medical care. Article 25 mandates states to ensure that every individual, including workers, has access to these essential elements of a dignified life. Beyond the UDHR, this right is also reflected in Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and Article 27 of the Convention on the Rights of the Child

<sup>10</sup> Farianto, W. (2021). *Pola Hubungan Hukum Pemberi Kerja dan Pekerja: Hubungan Kerja Kemitraan dan Keagenan*. Sinar Grafika.

<sup>11</sup> Saputri, W. M., Machmud, H., Anhusadar, L., Mustang, Z., & Safei, N. H. (2023). Kesenian Khabanti: Meningkatkan Perkembangan Seni Anak Usia Dini. *Murhum: Jurnal Pendidikan Anak Usia Dini*, 4(2), 247-258.

<sup>12</sup> Effendy, C. A., Paramarta, V., & Purwanda, E. (2024). Peran Teknologi Informasi, Pengelolaan Sumber Daya Manusia, Dan Sistem Informasi Rumah Sakit Dalam Meningkatkan Kinerja Rumah Sakit (Kajian Literatur). *Jurnal Review Pendidikan Dan Pengajaran (JRPP)*, 7(4), 13479-13489.

<sup>13</sup> Marzuki, M. (2017). *Penelitian hukum: Edisi revisi*. Prenada Media.

<sup>14</sup> Ismail, I., Haron, H., Nasir Ibrahim, D., & Mohd Isa, S. (2006). Service quality, client satisfaction and loyalty towards audit firms: Perceptions of Malaysian public listed companies. *Managerial auditing journal*, 21(7), 738-756.

(CRC). However, these instruments do not definitively explain what constitutes an "adequate standard of living."<sup>15</sup>

In the context of the UDHR, an adequate standard of living extends beyond fulfilling basic needs. It encompasses participating in society with dignity, free from unreasonable barriers. Every individual should be able to meet their essential needs without compromising their self-respect.<sup>16</sup> This principle is particularly relevant to workers, who often face challenges in achieving a sufficient livelihood without sacrificing their fundamental rights. Workers may encounter inhumane working conditions or wages below the poverty line, highlighting the critical role of this right.<sup>17</sup>

The right to an adequate standard of living includes access to sufficient food, adequate housing, and healthcare services. Article 11 of the ICESCR further elaborates on the right to food, obligating states to ensure freedom from hunger. This right requires the physical and economic availability of sufficient food that meets nutritional needs. Violations of this right arise from food scarcity and inequitable access caused by inadequate policies.<sup>18</sup>

The right to adequate housing is another cornerstone of an adequate standard of living. Adequate housing extends beyond mere shelter; it must provide safety, peace, and dignity. Essential services such as access to clean water, energy, and sanitation are integral to this right. States are responsible for protecting individuals from forced evictions and ensuring housing accessibility for vulnerable groups.<sup>19</sup>

Complementing the rights to food and housing, the right to health is a fundamental element of an adequate standard of living. While this right does not guarantee perfect health, it ensures access to the highest attainable physical and mental health standards. It encompasses access to sufficient healthcare services, affordable facilities, and state efforts to prevent and address diseases. States are obligated to provide healthcare services without discrimination, especially for vulnerable populations.<sup>20</sup>

The right to an adequate standard of living does not exist in isolation. In the employment context, Articles 22, 23, and 24 of the UDHR reinforce workers' rights to social security, fair labor conditions, and adequate rest, all of which aim to preserve human dignity and well-being.<sup>21</sup>

Article 22 of the UDHR emphasises every individual's right to social security and the fulfilment of economic, social, and cultural rights essential for dignity and personal development.<sup>22</sup> Social security includes protections against risks such as unemployment, workplace accidents, and illness-related inability to work. It also encompasses access to healthcare facilities and unemployment benefits, enabling workers to maintain an adequate

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<sup>15</sup> United Nations, "Universal Declaration of Human Rights"; General Assembly resolution 2200A (XXI), "International Covenant on Economic, Social and Cultural Rights," OHCHR, December 16, 1966, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>; General Assembly resolution 44/25, "Convention on the Rights of the Child," OHCHR, November 20, 1989, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.

<sup>16</sup> Daniel Moeckli et al., *International Human Rights Law* (Oxford: OUP Oxford, 2014).

<sup>17</sup> Suci Flambonita, *Hukum Ketenagakerjaan Telaah Keberlakuan Undang-Undang Ketenagakerjaan Bagi Home Base Workers Di Indonesia Perspektif Upah Yang Layak* (Malang: Media Nusa Creative (MNC Publishing), 2023).

<sup>18</sup> Moeckli et al., *International Human Rights Law*.

<sup>19</sup> Moeckli et al.

<sup>20</sup> Moeckli et al.

<sup>21</sup> United Nations, "Universal Declaration of Human Rights."

<sup>22</sup> United Nations.

standard of living. States are responsible for implementing effective social security policies to safeguard workers from conditions threatening their welfare.<sup>23</sup>

Article 23 of the UDHR explicitly guarantees the right to employment, free choice of work, and fair and just labor conditions.<sup>24</sup> This article asserts the right to protection against unemployment and to equal pay for equal work without discrimination. These principles underscore the necessity of fair wages that ensure the well-being of workers and their families and align with a dignified standard of living. Additionally, it affirms the workers' right to form and join trade unions to safeguard their rights collectively.<sup>25</sup> States must ensure that wage systems adhere to principles of fairness, including minimum wages that reflect workers' basic needs and are complemented by social security provisions when necessary.

Article 24 of the UDHR highlights the significance of workers' right to rest and leisure. This right includes reasonable limits on working hours and periodic paid holidays. Adequate rest is crucial for maintaining a balance between work and personal life and preserving physical and mental well-being.<sup>26</sup> States are obliged to regulate working hours equitably to prevent exploitation while maintaining workforce productivity. Regulations must also ensure that workers receive sufficient rest periods.

The well-being of workers depends on fulfilling three primary state obligations outlined in international human rights instruments: the duty to respect, protect, and fulfil workers' rights. States must ensure that neither companies nor individuals exploit workers by creating unsafe working conditions, providing inadequate wages, or neglecting social security protections. Furthermore, states must establish effective legal frameworks to shield workers from discrimination, unfair dismissal, and other violations of fundamental rights. Failure to meet these obligations is evident in cases where workers face hazardous conditions or receive wages below a living standard, jeopardizing their welfare.<sup>27</sup>

In this context, Articles 22 to 25 of the UDHR provide a comprehensive framework to ensure workers' right to an adequate standard of living. These rights encompass robust social security, fair labor conditions, adequate wages, and sufficient rest. States must actively monitor and enforce labor regulations to guarantee these rights for workers. Thus, fulfilling the right to an adequate standard of living is not merely a moral imperative but a legal obligation binding upon states that recognise the UDHR as a universal guide for protecting human rights.

### **Review of the Legal Considerations and Ruling of the Constitutional Court Decision No. 168/PUU-XXI/2023**

The Constitutional Court (MK), in Decision No. 168/PUU-XXI/2023, addressed several constitutional issues concerning protecting workers' rights under the revised regulations introduced by Law No. 6 of 2023 on Job Creation (UU Ciptaker). The primary focus of the decision was to assess how these changes affect workers' rights to gain employment and an adequate livelihood, as guaranteed by Article 27(2) and Articles 28D(1) and (2) of the 1945 Constitution. Key issues examined include using foreign workers, the duration of fixed-term employment agreements (PKWT), outsourcing, workers' rest rights, and minimum wage

<sup>23</sup> Mas Akhmad Sudiarto, "Rekonstruksi Regulasi Penyelenggaraan Jaminan Pensiun Terhadap Tenaga Kerja Swasta Berbasis Nilai Keadilan" (Doctoral dissertation, Universitas Islam Sultan Agung, 2023), <https://repository.unissula.ac.id/31035/>; A. Muhaimin Iskandar, *Negara dan Politik Kesejahteraan* (Jakarta: Gramedia Pustaka Utama, 2021).

<sup>24</sup> United Nations, "Universal Declaration of Human Rights."

<sup>25</sup> Zulfikar Putra, Darmawan Wiridin, and Farid Wajdi, *Implementasi Upah Minimum terhadap Kesejahteraan Pekerja* (Malang: Ahlimedia Book, 2022).

<sup>26</sup> Muhammad Caesar Akbar and Stiffhany Margaretha, "Keseimbangan Kehidupan Kerja dan Kehidupan Pribadi: Manajemen Waktu Sebagai Kunci Utama," *Jurnal Ekonomi Revolusioner* 7, no. 6 (June 30, 2024), <https://oaj.jurnalhst.com/index.php/jer/article/view/3645>.

<sup>27</sup> Moeckli et al., *International Human Rights Law*.



provisions. The Court emphasised the importance of ensuring that the flexibility offered by the Job Creation Law aligns with the principles of social justice and workers' rights protection.<sup>28</sup>

One significant issue was the amendment to Article 42 of the Job Creation Law, which replaced the requirement for a Permit to Employ Foreign Workers (IMTA) with a Foreign Worker Utilization Plan (RPTKA). Petitioners argued that eliminating the IMTA would weaken oversight of foreign workers, potentially allowing an influx of unskilled labor and reducing employment opportunities for local workers. The Court rejected this concern, asserting that the RPTKA still requires government approval, including an assessment of qualifications such as job roles, duration, and reasons for employing foreign workers. The removal of the IMTA aimed to streamline bureaucracy without compromising substantive oversight. However, the Court emphasised that foreign worker utilisation must remain time-limited to ensure continued protection for local workers.<sup>29</sup>

Another critical issue concerned changes to PKWT regulations. Previously, Law No. 13 of 2003 capped PKWT duration at three years, whereas the Job Creation Law provided greater flexibility by delegating PKWT duration determinations to government regulations. Petitioners argued that this created legal uncertainty for workers, as the explicit limitation was removed. The Court acknowledged this concern, recognising that greater regulatory flexibility could undermine job security for workers. Consequently, the Court stipulated that employment agreements must be written and include the rights and obligations of both parties to ensure adequate legal protection. It clarified that provisions allowing termination upon the "completion of specific tasks" apply only to PKWT and not to indefinite-term employment agreements (PKWTT) to prevent arbitrary termination detrimental to workers.

Notably, the Court viewed the five-year PKWT duration as a form of regulatory delegation that insufficiently safeguards workers' legal protections. Under Law No. 13 of 2003, the maximum PKWT duration was explicitly stipulated, whereas the Job Creation Law relies on government regulations. To address this uncertainty, the Court mandated a maximum duration of five years to ensure legal clarity and protect workers from prolonged employment agreements without permanent status.<sup>30</sup>

The Court also scrutinised outsourcing provisions under the Job Creation Law, criticising the lack of clarity regarding the types of jobs eligible for outsourcing. Petitioners argued that the absence of explicit limitations created uncertainty for outsourced workers. The Court asserted that the Ministry of Manpower must define the types of jobs eligible for outsourcing to provide adequate legal protection. Such clarity is necessary to ensure that outsourced workers enjoy equal rights, including social security and wage protection. The Court aimed to minimise conflicts among workers, employers, and outsourcing service providers by establishing more transparent regulations.<sup>31</sup>

The Court addressed workers' rest rights issues, particularly for those working five days per week. The Job Creation Law stipulates that workers are entitled to one day off for six working days, but it does not explicitly accommodate two days off for a five-day workweek. Petitioners argued that this change disadvantaged workers by reducing their entitlement to adequate rest. The Court affirmed that rest periods are a fundamental workers' right that must be protected, interpreting the entitlement to two days off for a five-day workweek as part of workers' rights guaranteed by the 1945 Constitution. Consequently, the Court stated that the

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<sup>28</sup> Utami Argawati, "Kabulkan Sebagian, MK Minta UU Ketenagakerjaan Dipisahkan Dari UU Cipta Kerja - Berita."

<sup>29</sup> Constitutional Court Decision No. 168/PUU-XXI/2023, p. 550-561

<sup>30</sup> Constitutional Court Decision No. 168/PUU-XXI/2023, p. 561-575

<sup>31</sup> Constitutional Court Decision No. 168/PUU-XXI/2023, p. 575-587

working hours provisions in the Job Creation Law must maintain fair flexibility without compromising workers' rights to adequate rest.<sup>32</sup>

The Court also examined wage-related issues, removing the phrase "income sufficient for an adequate standard of living" from Article 88(1) of the Job Creation Law. Petitioners contended that this removal diminished clarity regarding workers' rights to an adequate standard of living. The Court held that despite the omission of the phrase, an explanation of "adequate standard of living" remains necessary to ensure that wages meet workers' basic needs, including food, housing, education, and healthcare. The abolition of sectoral minimum wages (UMS) was also criticised for potentially reducing protection for workers in specific sectors requiring higher wage standards. The Court emphasised that sectoral minimum wages are vital to ensuring workers' welfare in industries with distinct work characteristics.<sup>33</sup>

The Constitutional Court concluded that several provisions in the Job Creation Law challenged by the petitioners had valid legal grounds. The ruling reinforced that protecting workers' rights must not be sacrificed for labor market flexibility and economic growth. Regulations concerning PKWT, outsourcing, working hours, and wages must be implemented with due regard for the principles of social justice mandated by the 1945 Constitution. The Court underscored that employment policies must align with the state's obligation to guarantee all Indonesians' right to adequate employment and livelihood.

### **The Relevance of Constitutional Court Decision No. 168/PUU-XXI/2023 to the UDHR in Ensuring Workers' Right to an Adequate Standard of Living**

Constitutional Court Decision No. 168/PUU-XXI/2023 represents a significant milestone in re-evaluating labor policies in Indonesia, particularly concerning the fulfillment of workers' rights to an adequate standard of living as stipulated in the Universal Declaration of Human Rights (UDHR). Article 25 of the UDHR underscores that every individual has the right to a standard of living adequate for their health and well-being, including food, housing, and social protection.<sup>34</sup> In the context of labor, the ruling highlights the necessity of balancing labor market flexibility with the protection of workers' rights, in line with social justice principles mandated by both national constitutions and international legal instruments.

The Constitutional Court addressed contentious provisions of Law No. 6 of 2023 on Job Creation (UU Ciptaker), particularly regarding fixed-term employment agreements (PKWT), outsourcing, and wages. A key issue was the flexibility introduced to PKWT durations, previously capped at three years under Law No. 13 of 2003. This change raised concerns about potential exploitation due to the absence of guarantees for permanent employment status. The Court ruled that such flexibility must be accompanied by a requirement for written agreements specifying workers' rights and obligations.<sup>35</sup> This aligns with the UDHR's principles, which demand clarity and fairness in employment relations. This ruling underscores the Court's efforts to ensure workers' rights are safeguarded amid changes in the labor legal framework.

The decision also addressed the issue of outsourcing, particularly the absence of clear limitations on the types of jobs that can be outsourced under the Job Creation Law. The Court asserted that detailed regulations are necessary to prevent the exploitation of outsourced

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<sup>32</sup> Constitutional Court Decision No. 168/PUU-XXI/2023, p. 587-595

<sup>33</sup> Constitutional Court Decision No. 168/PUU-XXI/2023, p. 628-646

<sup>34</sup> United Nations, "Universal Declaration of Human Rights."

<sup>35</sup> Willy Farianto, *Pola Hubungan Hukum Pemberi Kerja dan Pekerja: Hubungan Kerja Kemitraan dan Keagenan* (Jakarta: Sinar Grafika, 2021); Asti Giri Anjani, Vonny Fatikha Azzahra, and Dian Amesti, "Perlindungan Hukum Mengenai Perjanjian Kerja Waktu Tertentu Untuk Pekerja Dalam Hukum Ketenagakerjaan," *Causa: Jurnal Hukum Dan Kewarganegaraan* 4, no. 2 (May 31, 2024): 32-42, <https://doi.org/10.3783/causa.v4i2.3455>.

workers. This aligns with Article 23 of the UDHR, which guarantees the right to just and favorable work conditions. The Court emphasised that the Ministry of Manpower must establish clear boundaries for outsourcing practices to ensure adequate worker protection concerning wages, social security, and other fundamental rights. By doing so, the ruling reinforces the state's role in protecting workers from unfair labor practices and ensuring their right to an adequate standard of living.<sup>36</sup>

The Court also reviewed wage-related provisions, mainly removing sectoral minimum wage regulations, which previously provided special protections for workers in specific industries. The Court found that this removal reduces protection standards for workers in high-risk sectors. Article 23 of the UDHR states that everyone has the right to just and equal remuneration for work of equal value, ensuring a decent living for themselves and their families. Consequently, the Court recommended additional regulations to ensure wage standards meet workers' basic needs in accordance with principles of social justice.<sup>37</sup>

The ruling also emphasised workers' right to adequate rest, as Article 24 of the UDHR outlines. The Court highlighted concerns over work-hour provisions in the Job Creation Law, which removed the entitlement to two days off in a five-day workweek system. This could negatively impact workers' work-life balance. The Court affirmed that rest periods must be regulated to ensure workers maintain their physical and mental well-being.<sup>38</sup>

Constitutional Court Decision No. 168/PUU-XXI/2023 strongly aligns with the principles of the UDHR in ensuring workers' right to an adequate standard of living. It underscores the state's role as the guardian of social justice, responsible for protecting workers from legal uncertainty and exploitation. By emphasising the balance between economic growth and the protection of human rights, the decision lays a crucial foundation for creating a fair, humane, and sustainable labor system.

## Conclusion

Constitutional Court Decision No. 168/PUU-XXI/2023 represents a pivotal moment in affirming the state's responsibility to protect workers' right to an adequate standard of living, as mandated by the Universal Declaration of Human Rights (UDHR). While the decision reinforces protections for workers, challenges remain in ensuring regulatory clarity and effective enforcement. Flexible labor policies may be necessary to support investment, but they must be balanced with robust worker rights protections. Concrete measures are needed to ensure every worker can enjoy a decent livelihood without compromising job security and dignity. This ruling is expected to strengthen Indonesia's labor legal framework and align it with social justice and human rights principles.

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<sup>36</sup> Zulhikmah Saputri, "Perlindungan Hak Tenaga Kerja Yang Mengalami PHK Dalam Peraturan Perundang-Undangan Indonesia Perspektif Siyasah Dusturiyyah" (Skripsi, Banda Aceh, UIN Ar-Raniry, 2023), <https://repository.ar-raniry.ac.id/id/eprint/31625/>.

<sup>37</sup> Aji rahman Halim, "Sistem Upah Berdasarkan Prinsip Keadilan Dalam Konsep Negara Kesejahteraan (Welfare State)," *Journal Presumption of Law* 3, no. 2 (October 9, 2021): 206–20, <https://doi.org/10.31949/jpl.v3i2.1496>.

<sup>38</sup> Akbar and Margaretha, "KESEIMBANGAN KEHIDUPAN KERJA DAN KEHIDUPAN PRIBADI."



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